

§ 17.364

the day of discharge, death, or transfer. Where a veteran for whom hospitalization has been authorized in Veterans Memorial Medical Center or a contract facility, is absent from the hospital for a period longer than 24 hours, no payment will be made for hospital care during that absence.

(Authority: 38 U.S.C. 1732)

[47 FR 58250, Dec. 30, 1982]

§ 17.364 Eligibility determinations.

Determinations of legal eligibility and medical need for hospitalization of United States veterans for treatment rest exclusively with the United States Department of Veterans Affairs. Determinations as to various factors upon which eligibility may depend shall be made as follows:

(a) *Determinations of service connection.* For the purpose of meeting any requirement in 38 U.S.C. 1724 and 1732, and 38 CFR 17.36 through 17.37 for service-connected disability, the United States Department of Veterans Affairs shall determine that under laws it administers the disability in question was incurred in or aggravated by service, and

(b) *Determinations of valid service.* For the purpose of determining the necessary prerequisite service, determinations by the Department of Defense of the United States as to military service shall be accepted. In those cases in which the United States Department of Veterans Affairs shall have information which it deems reliable and in conflict with the information upon which the Department of Defense determination was made, the conflicting information shall be referred to the Department of Defense for reconsideration and redetermination. Such determinations and redeterminations as to military service shall be conclusive.

(Authority: 38 U.S.C. 1712)

[47 FR 58250, Dec. 30, 1982, as amended at 61 FR 21969, May 13, 1996]

§ 17.365 Admission priorities.

Appropriate provisions of § 17.49 apply.

(Authority: 38 U.S.C. 1712)

[47 FR 58251, Dec. 30, 1982]

38 CFR Ch. I (7–1–13 Edition)

§ 17.366 Authorization of emergency admissions.

The Secretary of National Defense of the Republic of the Philippines shall make determinations as to whether any patient should be admitted in emergency circumstances before the U.S. Department of Veterans Affairs has made a legal determination of eligibility, except that liability for payment will not accrue to the United States until such eligibility determination has been made. Eligibility determinations will be given effect retroactively to the date of admission when the U.S. Department of Veterans Affairs has been notified by telephone, telegram, letter, or other communication of the emergency admission within 72 hours of the hour of admission. The Clinic Director of the VA Regional Office, Manila, may make an exception to the 72-hour limitation when it is determined that the delay in notification was fully justified. When any authorization cannot be made effective retroactively to the date of admission, it shall be effective from the date of receipt of notification.

[33 FR 5301, Apr. 3, 1968, as amended at 47 FR 58251, Dec. 30, 1982]

§ 17.367 Republic of the Philippines to print forms.

The Secretary of National Defense of the Republic of the Philippines will, with the concurrence of the Secretary of Veterans Affairs, print all forms for applications for hospitalization, forms for physical examination reports, forms for billings for services rendered, and such other forms as may be necessary and incident to the efficient execution of the program governed by the provisions of 38 U.S.C. 1724 and 1732, and 38 CFR 17.36 through 17.40 and §§ 17.350 through 17.370. The forms will be used whenever applicable in the general operation of the program.

[33 FR 5301, Apr. 3, 1968, as amended at 61 FR 21969, May 13, 1996]

§ 17.369 Inspections.

The U.S. Department of Veterans Affairs, through authorized representatives, has the right under the agreements cited in § 17.350, to inspect the Veterans Memorial Medical Center, its

Department of Veterans Affairs

§ 17.501

premises and all appurtenances and records to determine completeness and correctness of such records, and to determine according to the provisions of the cited agreements whether standards maintained conform to the necessary requirements.

[33 FR 5301, Apr. 3, 1968, as amended at 47 FR 58251, Dec. 30, 1982]

§ 17.370 Termination of payments.

Payments may be terminated if the U.S. Department of Veterans Affairs determines the Veterans Memorial Medical Center has not replaced and upgraded as needed equipment during the period in which the agreements cited in § 17.50 are in effect or has not rehabilitated the existing physical plant and facilities to place the medical center on a sound and effective operating basis, or has not maintained the medical center in a well-equipped and effective operating condition. Payments, however, will not be stopped unless the Veterans Memorial Medical Center has been given at least 60 days advance written notice of intent to stop payments.

(Authority: 38 U.S.C. 1732)

[33 FR 5301, Apr. 3, 1968, as amended at 47 FR 58251, Dec. 30, 1982]

CONFIDENTIALITY OF HEALTHCARE QUALITY ASSURANCE REVIEW RECORDS

AUTHORITY: 38 U.S.C. 5705.

SOURCE: 59 FR 53355, Oct. 24, 1994, unless otherwise noted.

§ 17.500 General.

(a) Section 5705, title 38, United States Code was enacted to protect the integrity of the VA's medical quality assurance program by making confidential and privileged certain records and documents generated by this program and information contained therein. Disclosure of quality assurance records and documents made confidential and privileged by 38 U.S.C. 5705 and the regulations in §§ 17.500 through 17.511 may only be made in accordance with the provisions of 38 U.S.C. 5705 and those regulations.

(b) The purpose of the regulations in §§ 17.500 through 17.511 is to specify and provide for the limited disclosure of

those quality assurance documents which are confidential under the provisions of 38 U.S.C. 5705.

(c) For purposes of the regulations in §§ 17.500 through 17.511, the VA's medical quality assurance program consists of systematic healthcare reviews carried out by or for VA for the purpose of improving the quality of medical care or improving the utilization of healthcare resources in VA medical facilities. These review activities may involve continuous or periodic data collection and may relate to either the structure, process, or outcome of health care provided in the VA.

(d) Nothing in the regulations in §§ 17.500 through 17.511 shall be construed as authority to withhold any record or document from a committee or subcommittee of either House of Congress or any joint committee or subcommittee of Congress, if such record or document pertains to any matter within the jurisdiction of such committee or joint committee.

(e) The regulations in §§ 17.500 through 17.511 do not waive the sovereign immunity of the United States, and do not waive the confidentiality provisions and disclosure restrictions of 38 U.S.C. 5705.

(Authority: 38 U.S.C. 5705)

§ 17.501 Confidential and privileged documents.

(a) Documents and parts of documents are considered confidential and privileged if they were produced by or for the VA in the process of conducting systematic healthcare reviews for the purpose of improving the quality of health care or improving the utilization of healthcare resources in VA healthcare facilities and meet the criteria in paragraphs (b) and (c) of this section. The four classes of healthcare quality assurance reviews with examples are:

(1) Monitoring and evaluation reviews conducted by a facility:

- (i) Medical records reviews,
- (ii) Drug usage evaluations,
- (iii) Blood usage reviews,
- (iv) Surgical case/invasive procedure reviews,

(v) Service and program monitoring including monitoring performed by individual services or programs, several